

Applications for Development: The Essentials

**Appearing before the Planning Board or Board of
Adjustment for Approval of a Variance,
Subdivision, Site Plan, or Conditional Use**



Town of Westfield
Planning and Zoning Department
959 North Avenue West, Westfield, New Jersey 07090
<https://westfieldnj.gov/190/Planning-Zoning>

Applications for Development

An application for development is required for approval of a variance, subdivision, site plan, or conditional use. Depending on the type of application, either the Planning Board or Board of Adjustment has jurisdiction to review the application.

The following pages describe and summarize the development application process. The process is as required by the New Jersey Municipal Land Use Law and applicable Town of Westfield Land Development Regulations.

Applicants are encouraged to discuss their application with staff prior to filing. Staff can assist with filing procedures and provide general guidance to applicants, including recommendations which may help to improve the application. Staff is always happy to assist you through the process. To request an appointment, contact Kristine Burd at 908.789.4100, ext. 4602, or via email at kburd@westfieldnj.gov.

The Town of Westfield Land Development Regulations may be found online at <https://www.westfieldnj.gov/205/Land-Use-Ordinance-Amendments>. You may also find application forms, the zoning map, board meeting schedules, the Town Master Plan, and various other planning documents through the Planning and Zoning Department webpage on the Town's website at <https://westfieldnj.gov/190/Planning-Zoning>

What is a Variance?

A variance is an approved departure from the requirements included within the local zoning ordinance. A variance is needed if construction, alteration, or occupancy of a structure will result in a violation of zoning ordinance requirements. By State Statute, variances may only be approved by the Planning Board or Zoning Board of Adjustment. They may not be approved by Town staff. Which board reviews the request for a variance is also determined by State Statute. Staff will assist an applicant in determining which Board can hear their variance request. It is important to note that construction permits cannot be submitted or reviewed until any required variances are obtained.

There are two categories of variances as described below:

"c" - Variances (Bulk Variances)

"c" Variances are filed when an applicant seeks an exception to the strict application of the local zoning ordinance. Bulk variances are filed for the following reasons:

- Exceptional narrowness, shallowness, or shape of a specific piece of property
- Exceptional topographic condition
- Extraordinary and exceptional situations uniquely affecting a specific piece of property and the structures lawfully existing thereon
- The purposes of the N.J. Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements

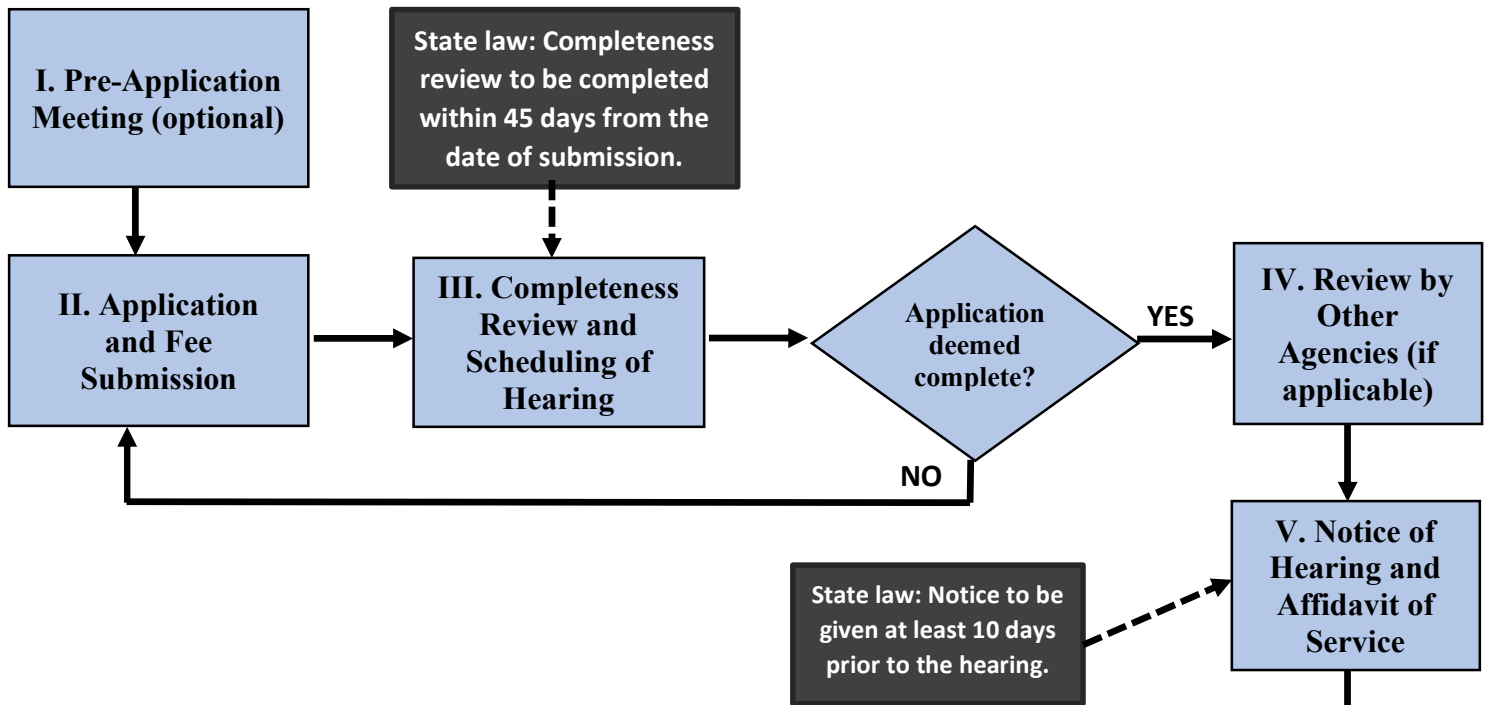
"d" - Variances (Use Variances)

"d" Variances, may only be heard by the Zoning Board of Adjustment. They are filed by an applicant for one or more of the following reasons:

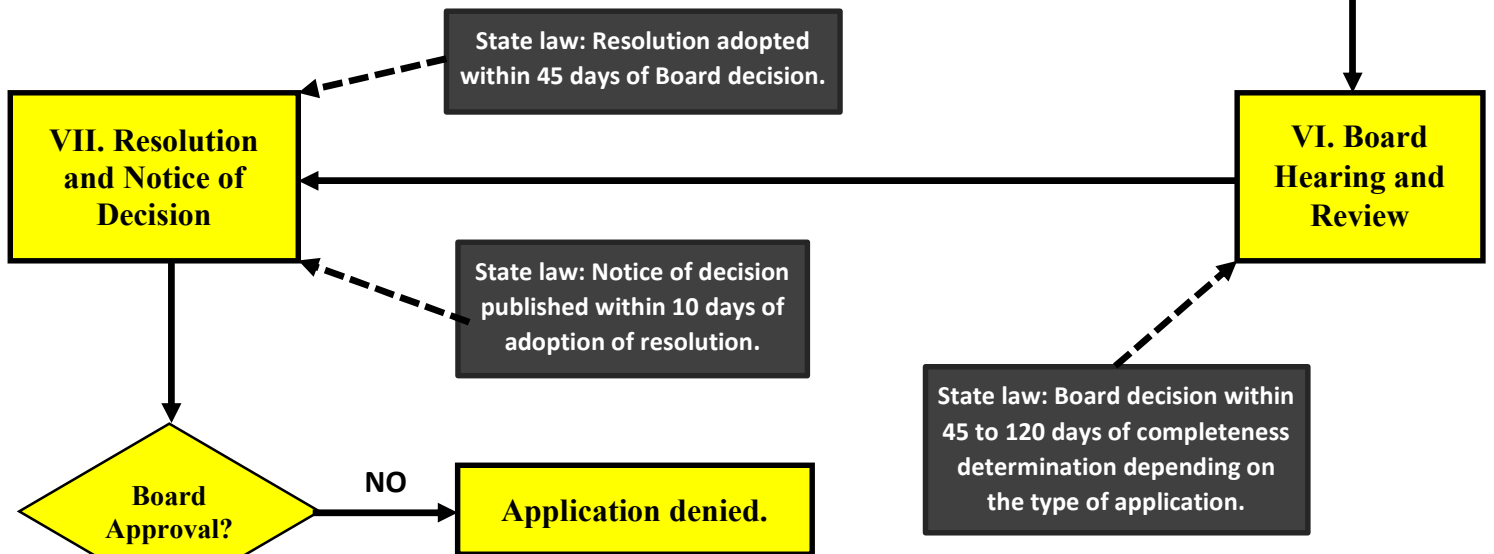
- To construct or create a use or principal structure in a zoning district that has restrictions against such use or principal structure
- To expand a non-conforming use
- To deviate from a conditional use requirement
- To increase the permitted floor area ratio (FAR)
- To increase the permitted density
- To increase the permitted height by 10 feet or 10% of the maximum height permitted

No variance may be granted if it would cause substantial detriment to the public good, or if it would substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Development Application Process



Board Review of Your Application



After Your Board Approval



I. Pre-Application Meeting (Optional)

It is recommended that any party interested in submitting a development application with the Town of Westfield request a meeting with staff to review the application process mandated by State law and any Town of Westfield (“Town”) ordinance requirements that may apply based on the nature of the application. Though this step is optional, Ms. Kristine Burd, Board Secretary may be contacted at 908-789-4100, extension 4602, or by email at kburd@westfieldnj.gov to request a meeting with board staff.

II. Application and Fee Submission

Please keep in mind that throughout the application process, the responsibility for meeting application filing requirements always rests with the applicant.

1. Obtain an application package from the Department of Planning and Zoning
 - ✓ Application packages which consist of an application form, ancillary forms, and completeness checklist may be obtained from the Office of Planning and Zoning at 959 North Avenue West, or online at www.westfieldnj.gov.
2. Complete the application form and all other required forms contained with the package, including the completeness checklist.
 - ✓ Mark the completeness checklist for each item under the applicable category for the type of application you are filing.
 - ✓ If you are requesting a waiver of submission requirements, be sure to submit the “Request for Waiver of Submission Requirements” form complete with the information required.
3. Provide plans, photographs, all other required documentation as called for in the completeness checklist, and required fees when you file your application.
 - ✓ An applicant is required to submit both an application fee and escrow fee. The fee schedule is established by ordinance. Escrow is used to cover costs of board professionals such as the board attorney, board engineer, and board planner. The board’s professionals bill the applicant, through the Town, for time spent on an application. Whatever escrow is not utilized is returned to the applicant. If the escrow becomes deficient, no further action shall be taken on the application unless the escrow is funded by the applicant.
4. Applications may be delivered to the Office of Planning and Zoning, 959 North Avenue West, Westfield, NJ 07090.

III. Completeness Review and Scheduling of Hearing

After you submit your application, staff will review to determine that the application is complete, pursuant to the requirements of the NJ Municipal Land Use Law

(NJSA 40:55D-10.3) and Town Land Development Regulations. This is a legal determination as to whether the application submission includes all of the items and detail required by the application checklist. Staff has a period of 45 days in which to review your application for completeness.

If your application is deemed to be incomplete, you will be notified of the application deficiencies and it is up to you as the applicant to make any necessary corrections. Any resubmission must be reviewed for completeness within 45 days of the date of the resubmission. *A meeting date will not be assigned until your application is deemed complete.*

If your application is deemed complete, you will be notified and given a hearing date with the board of jurisdiction.

Planning Board regularly scheduled meetings are held on the first Monday of every month starting at 7:30 in Westfield Town Hall, 425 East Broad Street, Westfield.*

Board of Adjustment regularly scheduled meetings are held on the second Monday of every month starting at 7:30 in Westfield Town Hall, 425 East Broad Street, Westfield.*

Either Board may entertain a special meeting at the request or consent of the applicant. If requested by the applicant, a special meeting fee is required. The ability to hold a special meeting depends on factors such as board member availability and meeting space availability.

**Please check the board calendars at www.westfieldnj.gov for any exceptions due to holidays.*

IV. Review by Other Agencies

If outside agencies such as the County Planning Board or Soil Conservation District are required to review the application, it is the applicant's responsibility to file for approval from those agencies.

For some applications, local ordinance requires referral to the Town Historic Preservation Commission or the Tree Preservation Commission for its review and comment. These bodies act in an advisory capacity to both the Planning and Zoning Boards and may comment on your application. Board staff will inform an applicant if review by these agencies is required, and if additional sets of plans or separate application to either commission is required.

V. Notice of Hearing and Affidavit of Service

Notice of a scheduled hearing must be given at least 10 days prior to the date of the hearing, and the date of the hearing is not counted as one of the 10 days. It is the responsibility of the applicant for proper processing of notices, and not the board. Failure to provide timely notice as required by law will result in a rescheduling of your hearing date. For detached single-family homeowner applicants, board staff will prepare the legal notice for you unless requested otherwise.

The applicant is responsible for publication of the notice of the hearing in an official newspaper of the Town of Westfield, however, for single-family homeowner applicants, board staff will prepare and publish notice in the newspaper for you. The

Town's official newspapers are the Westfield Leader and Star Ledger. Please note that the Leader publishes on Thursdays. The Star Ledger serves as the daily newspaper for the Town.

ALL applicants are responsible for noticing all owners of real property, as shown on the current tax duplicate, located within 200 feet of the property or properties which are the subject of the hearing. Notice is to be provided by either serving a copy of the notice to the property owner, or the agent in charge of the property, (a signature is required as proof of service) or by mailing a copy of the notice by certified mail to the affected property owner.

Notice to a partnership owner is to be made by service upon any partner. Notice to a corporate owner is to be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

When the subject property is located within 200 feet of an adjoining municipality, notice must be given by personal service or by certified mail to the clerk of that municipality. The applicant is required to obtain a certified list of property owners from the adjoining municipality. Notice sent to the clerk and property owners in the adjoining municipality must be the same as those sent to property owners in Westfield.

When the subject property is located on a county road, notice is also to be given to the Union County Planning Board. Notice must also be provided to public utilities, cable television companies, and any local utility.

The application packet includes a form entitled "Request for Property Owner's List" which must be completed in order for staff to prepare the certified property owners list for you.

An applicant must provide the board with an affidavit of proof of service showing that notice was provided in accordance with law. The affidavit must have attached a copy of the notice, and copies of any certified list or lists of property owners along with any certified mail slips.

VI. Board Review of Your Application

Representation:

Corporate applicants, in general, can only be represented by an attorney at law admitted to practice in the State of New Jersey. An applicant is required to appear before the board in person, or be represented by an attorney or authorized agent to present their case before the board.

Agenda:

The Board chair will call for applicants to present their case at the hearing, following the order of applications as listed on the Board's agenda for that evening.

Order of Hearing:

The applicant is responsible for having all witnesses, evidence, displays, handouts and other items as may be necessary ready at the hearing. Copies of any materials marked as exhibits at the hearing must be retained by the board.

Each witness may be questioned by members of the public after their testimony. In addition, the board chair will provide an opportunity to the public to make overall comments on the application.

Any objectors to an application also have the ability to cross-examine witnesses, bring their own witnesses, and make a case as to why the application should be modified or denied.

Board decision:

Upon conclusion of the hearing, or as soon thereafter as possible, the board will discuss and deliberate before voting to approve the application, approve the application with conditions, or deny the application.

Timeframe in which the board must act:

The board is required to act within a certain time from which the application is deemed complete, dependent upon the characteristics of the application.

45 days for: Minor site plans, preliminary major site plans of 10 acres or less or 10 dwelling units or less, final major site plans, minor subdivisions, final major subdivisions

95 days for: Preliminary major site plans of more than 10 acres or more than 10 dwelling units, preliminary major subdivisions of more than 10 lots

120 days: When an application involves a variance request, structures not related to a street, or structures in the bed of a street or reserved public area

All timeframes may be extended with the consent of the applicant.

VII. Resolution and Notice of Decision

Resolution:

After the board votes on an application, the board attorney will prepare a resolution which memorializes their decision. The resolution is normally adopted at the next meeting date after which a decision is made, in order to give adequate time for the board attorney to draft, and board members the ability to review the resolution. By law, the resolution must be memorialized within 45 days of the board's vote.

A copy of the board's resolution will be mailed to you within 10 days of its adoption. State law also requires that a notice of the board's decision be published in the official newspaper which for Westfield is the Westfield Leader or Star Ledger. This notice shall be sent to the official newspaper for publication within 10 days of the date of memorialization of the board's resolution. Any appeal of the board's decision must be made within 45 days of the date of publication of the notice of decision. Please note

proceeding with the permitting and construction process during the appeal period is at your own risk.

AFTER BOARD APPROVAL

VIII. Meet Conditions of Approval

Any and all conditions of approval must be complied with before permits can be issued. If plans must be modified due to a condition of approval, they must be modified prior to signing of the plans by municipal officials.

IX. Signing of Approved Plans/Deed, etc.

Approved site plan and subdivision plans or deeds as required are signed by the Board Chair and Board Secretary. These plans become part of the applicant's approval and all construction must be in compliance with these plans.

X. File for Construction Permits

You must still apply for all construction permits after receiving an approval. All final plans must have been signed, and in the case of subdivisions also filed with the County. All conditions of approval must be complied with before permits can be issued.